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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER CHRISTENSEN, SCOTT B	
			ART UNIT 2444	PAPER NUMBER
			NOTIFICATION DATE 09/30/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM
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Office Action Summary

Application No.

09/731,019

Applicant(s)

WILSON, DAVID J.

Examiner

Scott Christensen

Art Unit

2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7, 9, 11, 12, 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9, 11, 12, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 7/29/2009

DETAILED ACTION

1. This Office Action is in regards to the most recent papers filed on 7/29/2009.

Response to Arguments

2. Applicant's arguments filed 2/10/2009 have been fully considered but they are not persuasive.
3. On pages 6-7, Applicant argues that Examiner has mischaracterized the disclosure of Nielsen. Applicant argues that Nielsen does not teach "ranking web information elements according to an attribute in each element and displaying the elements in a sorted order."
4. Applicant further states that the cited portions of Nielsen "relate to a method that retrieves a web file and sorts one or more web object references according to a priority attribute associated with each web object for reference." However, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
5. In this case, the teaching of Nielsen shows that an attribute (priority attribute) that is stored with an element (web object) may be used to sort the elements according to the attribute. With this teaching, it would have been clear to a person of ordinary skill in the art that the disclosure of Nowthis could be utilized in a similar manner, where an attribute (number of indications) that is stored with an element (review) may be used to sort the elements (reviews) according to the attribute (number of indications). A person

of ordinary skill in the art would clearly have been capable of, and motivated to, utilize the number of indications associated with a review as a priority as a review, as the reviews indicated as being the most helpful would clearly be the most pertinent. Further, as Nowthis shows a concern for allowing a user to have knowledge of the most pertinent review (the review found most helpful), there is definite motivation to perform sorting functions, such as in Nielsen, to more clearly display the highest rated reviews.

It is noted that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Accordingly, for the reasons stated above, the combination of Nowthis with Nielsen does teach "sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order."

6. Further, on page 7, Applicant argues that the priority attribute of Nielsen is static. However, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

7. On pages 7-8, Applicant argues that the Office action only asserts that without sending an error to the user, a user would click the link, but be unsure as to whether the vote was cast or not, and that it is unclear whether the assertion is that the missing element is inherent or of the Office Action is taking Official Notice.

This was asserted as part of the Official Notice taken with respect to claim 1, and was provided as part of the motivation for combining the Official Noticed elements with that of Nowthis.

Further, Applicant objects to the assertion of Official Notice and requests that references are cited in support of the assertion. However, according to MPEP 2144.03 C, "To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." Further, "If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." However, Applicant has not provided any specific arguments, or any statement of why the noticed fact is not considered to be common knowledge. Lacking an adequate traversal of the official notice, no documentary evidence needs to be provided at this time.

8. On pages 8-10, Applicant argues the rejection of claims 1, 7, 9, 11-12, 14, and 16. However, these arguments appear to be substantially similar to the arguments presented on pages 6-8, and are deemed not persuasive for substantially similar reasons as above.

9. Accordingly, the rejections of claims 1, 7, 9, 11, 12, 14, and 16 under 35 USC 103 have been maintained.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over NOWTHIS.COM (NOWTHIS.COM, blog entry, Nov 24, 1999), hereinafter referred to as Nowthis, in view of Nielsen (U.S. Pat. No. 6,789,075).

12. With regard to claim 1, Nowthis discloses a method for identifying as being helpful or otherwise valuable product/service reviews in a database coupled to a distributed communication network, the method comprising:

displaying product/service reviews from the database on a client display connected to

the database over the network (Nowthis: Page 2. As the user has the opportunity to rate reviews given to a product, it is clear that the user must have been presented with the review for a specific product. Accordingly, it is clear that Amazon retrieves the reviews from some database, then presents the reviews to the user.);

providing an interactive element associated with each of the displayed reviews on the client display, which when clicked by a user, indicates that the user has found a displayed review associated with the product/service helpful in determining whether or not to purchase the product/service (Nowthis: Page 2. Nowthis discloses that the Amazon page includes "Was it helpful to you? [YES] [NO]."

As Amazon utilizes a web page, some interactive element is clicked by a user (such as the [YES] [NO]) to indicate whether the review was useful.);

receiving at the database an indication that the user has clicked the interactive element, and incrementing a count of a stored number of indications for the review (1) in response to the indication (Nowthis: page 2. Amazon indicates how many people found the review useful, meaning a tally is maintained and incremented for each vote.); and

displaying the count of the stored number of indications for the review on the client display together with the review (Nowthis: Page 2. As the phrase refers to "this review," it is apparent that the count is presented with the review that is referred to as "this review.");

recurrently tallying the number of indications (Nowthis: Page 2. Amazon has many users, and utilizes a web page for an interface. Further, the user viewing the current page has the current tally (before voting), then has the opportunity to vote, meaning that the vote is tallied recurrently (e.g. before a particular user votes and after a particular user votes).).

However, Nowthis does not appear to disclose expressly:

incrementing the count of a stored number of indications (2) if the stored number of indications does not exceed one indication for the review from the user; sending an error to the user if the interactive element is clicked more than once by the user for the review; sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and re-sorting the reviews for a subsequent display.

However, Nielsen discloses ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41).

It would have been obvious to modify the disclosure of Nowthis to sort the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and re-sorting the reviews for a subsequent display.

The suggestion/motivation for doing so would have been that sorting lists in databases according to one of the attributes stored in the database is a well known operation that allows the information being displayed to be displayed in the most convenient manner for the user. In this case, Amazon, as disclosed by Nowthis, is concerned with providing the user with useful reviews, and allowing the user to make a more educated purchasing decision based on the reviews. Accordingly, sorting the reviews in a manner in accordance with the reviews (e.g. most helpful reviews first)

would allow the user to immediately see the most relevant reviews, thus reducing the effort required by the user to read non-helpful reviews, or manually scan the list for the most helpful reviews. Further, as many users utilize Amazon, any functionality performed for one user should be performed for each and every user, meaning that the sorting of the list presented for the first user should be sorted for each other user. Further, the sorted list should present the most current information. Accordingly, a person of ordinary skill in the art would have been clearly motivated to resort the list after the vote has been tallied for the next user to view the reviews.

Further, Official Notice (see MPEP 2144.03) is taken that it would have been well known to only allow a particular user to vote once in a survey, election, or any other functionality where the input of many users is desired, and to provide feedback as to whether the vote was cast or not.

Accordingly, it would have been obvious to modify the teachings of Nowthis as modified by Nielsen to increment the count of a stored number of indications if the stored number of indications does not exceed one indication for the review from the user and send an error to the user if the interactive element is clicked more than once by the user for review.

The suggestion/motivation for doing so would have been that the disclosure of Nowthis explicitly states that "1 people found the review helpful. 0 did not." Accordingly, it is apparent that Amazon is interested in getting one input per person. Further, limiting each person to only one vote ensures that a single individual cannot unduly skew a product review by repeatedly voting a certain way. Accordingly, limiting

each person to one review ensures that the reviews marked as being helpful were actually helpful to the stated number of users. Further, providing an error in situations where a user has voted more than once allows a user to be aware of the current status of the actuating of the interactive element. To ensure that a user knows that the interactive element was properly actuated, some sort of feedback would be required, where a successful vote would indicate that the vote would be successful, and the non-successful vote would indicate that the vote was not successful. Without this, a user would click on the link, and be unsure as to whether a vote was cast or not.

13. With regard to claim 7, Nowthis as modified by Nielsen discloses the invention as substantially claimed except:

compiling a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews; and displaying the list of reviewers on the client display.

However, Official Notice is taken that it would have been well known to extract information on reviewers and provide a list of the reviewers, including the reviewers with the highest number of indications, and display the list.

Accordingly, it would have been obvious to modify the teachings of Nowthis as modified by Nielsen to:

compile a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews; and display the list of reviewers on the client display.

The suggestion/motivation for doing so would have been that in cases where the reviews have not yet been voted on, or the votes are very limited (as in the example in Nowthis on page 2), information on each reviewer who reviewed the product, including some information on how helpful the reviews of the particular reviewer are, would allow a user to evaluate the likelihood of the review being helpful based on the reviewers other reviews.

14. With regard to claims 9, 11-12, 14, and 16, the instant claims are substantially similar to claims 1 and 7, and are rejected for substantially similar reasons.

Claim Rejections - 35 USC § 103

15. Claims 1, 7, 9, 11, 12, 14, and 16 are rejected under 35 U.S.C. 103(a) as obvious over Epinions (WWW.EPINIONS.COM, Oct 12, 1999), hereinafter referred to as Epinions, in view of Salas et al. (U.S. Pat. No. 6,230,185), hereinafter referred to as Salas, and in further view of Nielsen (U.S. Pat. No. 6,789,075).

16. With regard to claim 1, Nowthis discloses a method for identifying as being helpful or otherwise valuable product/service reviews in a database coupled to a distributed communication network, the method comprising:
displaying product/service reviews from the database on a client display connected to
the database over the network (Nowthis: Page 2);
providing an interactive element associated with each of the displayed reviews on the
client display, which when clicked by a user, indicates that the user has found a

displayed review associated with the product/service helpful in determining whether or not to purchase the product/service (Epinions: Page 10. The user is asked if they found the opinion "Very Useful," "Useful," "Somewhat Useful," or "Not Useful.");

receiving at the database an indication that the user has clicked the interactive element, and incrementing a count of a stored number of indications for the review (1) in response to the indication (Epinions: Page 9, "Rating Summary". As information on how many users found the review to be useful, it is clear that the count of indications is being maintained by a database after the users vote for how useful the review was.); and

displaying the count of the stored number of indications for the review on the client display together with the review (Epinions: Page 9);

recurrently tallying the number of indications (Epinions: Pages 9-10. As the user votes for the review on the same web page as the "Rating Summary," it is clear that the results will be tallied again when the user votes.).

However, Epinions does not appear to disclose expressly:

incrementing the count of a stored number of indications (2) if the stored number of indications does not exceed one indication for the review from the user;

sending an error to the user if the interactive element is clicked more than once by the user for the review;

sorting the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and
re-sorting the reviews for a subsequent display.

However, Nielsen discloses ranking web information elements according to an attribute in each element, displaying the elements in sorted order (see column 3, lines 10-32; column 7, lines 35-41).

It would have been obvious to modify the disclosure of Epinions to sort the reviews in ascending or descending order as a function of the number of indications tallied for each review, and sequentially displaying the reviews in the sorted order; and re-sorting the reviews for a subsequent display.

The suggestion/motivation for doing so would have been that sorting lists in databases according to one of the attributes stored in the database is a well known operation that allows the information being displayed to be displayed in the most convenient manner for the user. In this case, Epinions, is concerned with providing the user with useful reviews, and allowing the user to make a more educated purchasing decision based on the reviews, as shown on page 8, "Who needs another buying guide?" Accordingly, sorting the reviews in a manner in accordance with the reviews (e.g. most helpful reviews first) would allow the user to immediately see the most relevant reviews, thus reducing the effort required by the user to read non-helpful reviews, or manually scan the list for the most helpful reviews. Further, as many users utilize Epinions, any functionality performed for one user should be performed for each

and every user, meaning that the sorting of the list presented for the first user should be sorted for each other user. Further, the sorted list should present the most current information. Accordingly, a person of ordinary skill in the art would have been clearly motivated to resort the list after the vote has been tallied for the next user to view the reviews.

Further, Salas discloses that it would have been well known to only allow a particular user to vote once in a survey, election, or any other functionality where the input of many users is desired (Salas: column 16, lines 33-54).

Accordingly, it would have been obvious to modify the teachings of Nowthis as modified by Nielsen to increment the count of a stored number of indications if the stored number of indications does not exceed one indication for the review from the user and send an error to the user if the interactive element is clicked more than once by the user for review.

The suggestion/motivation for doing so would have been that the disclosure of Nowthis explicitly states that "1 people found the review helpful. 0 did not." Accordingly, it is apparent that Amazon is interested in getting one input per person. Further, limiting each person to only one vote ensures that a single individual cannot unduly skew a product review by repeatedly voting a certain way. Accordingly, limiting each person to one review ensures that the reviews marked as being helpful were actually helpful to the stated number of users. Further, providing an error in situations where a user has voted more than once allows a user to be aware of the current status of the actuating of the interactive element. To ensure that a user knows that the

interactive element was properly actuated, some sort of feedback would be required, where a successful vote would indicate that the vote would be successful, and the non-successful vote would indicate that the vote was not successful. Without this, a user would click on the link, and be unsure as to whether a vote was cast or not.

17. With regard to claim 7, Nowthis as modified by Nielsen discloses the invention as substantially claimed except:

compiling a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews; and displaying the list of reviewers on the client display.

However, Official Notice is taken that it would have been well known to extract information on reviewers and provide a list of the reviewers, including the reviewers with the highest number of indications, and display the list.

Accordingly, it would have been obvious to modify the teachings of Nowthis as modified by Nielsen to:

compile a list of reviewers including names of those reviewers who have received a highest number of indications for their product/service reviews; and display the list of reviewers on the client display.

The suggestion/motivation for doing so would have been that in cases where the reviews have not yet been voted on, or the votes are very limited (as in the example in Nowthis on page 2), information on each reviewer who reviewed the product, including some information on how helpful the reviews of the particular reviewer are, would allow

a user to evaluate the likelihood of the review being helpful based on the reviewers other reviews.

18. With regard to claims 9, 11-12, 14, and 16, the instant claims are substantially similar to claims 1 and 7, and are rejected for substantially similar reasons.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571)270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./
Examiner, Art Unit 2444
/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444